

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO.48 OF 2017

M/s.Cummins Sales & Service Pvt. Ltd.)....Petitioner

V/s.

M/s.FEMC-Pratibha JV & Anr.)....Respondents

Mr.Rajesh Kumar Choudhary i/by RKC Legal for petitioner.

None for respondents.

CORAM : K.R.SHRIRAM,J

DATE : 3.11.2017

P.C.:-

1 This is a petition filed under section 11 of the Arbitration and Conciliation Act 1996. Petitioner had received purchase orders which indicated that it was from FEMC-Pratibha JV for supplying various goods mentioned therein. The purchase order, on the reverse at clause-9 provided as under :-

“All disputes with respect to this Work Order/Purchase Order shall be referred to the sole arbitrator appointed by the Company Secretary of Pratibha Industries Limited”

2 Therefore, petitioner rightly submits that respondent no.1 does not appear to be a legal entity and it is respondent no.2 who is a party with whom the arbitration agreement has been entered into. Counsel appearing for petitioner states that notice dated 9.11.2016 invoking arbitration was sent to the Company Secretary of

respondent no.2, which has been received but there has been no response. A copy of the petition has also been served on both respondents and affidavit of service of Shashikant Vishram Jadhav affirmed on 16.9.2017 is also on record. Nobody has entered appearance for respondent nos.1 & 2 nor even any reply has been filed opposing the application. Nobody is present on call either. Therefore, the averments contain in the petition are uncontroverted.

3 Ms.Anamika Malhotra, an advocate practicing in this court having her office at 501, A-wing, Dosti Florentine, Dosti Acres, Wadala (East) Mumbai-400 037, Mobile No.9820698770, is appointed as sole arbitrator to arbitrate on disputes arising out of purchase orders issued by respondents to petitioner.

4 Within 3 weeks of receiving communication from the advocate for petitioner forwarding a copy of this order, the arbitrator shall disclose in writing as required under Section 11(8) read with section 12(1) of Arbitration and Conciliation Act, 1996.

The fees of the arbitrator, administrative charges, typing charges and venue charges if any, shall be shared equally between the parties and the same will be cost in the arbitral proceeding.

5 Petition disposed accordingly.

(K.R.SHRIRAM,J)